

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

TACUMA MWANZA,
Plaintiff,
v.
NAPHCARE, INC., et al.,
Defendants.

Case No. 2:11-CV-00471-APG-CWH

ORDER

(Dkt. #74, #78)

On October 7, 2014, Magistrate Judge Hoffman entered a Report & Recommendation (Dkt. #78) recommending I dismiss this action against Nurse "Augustus." Judge Hoffman ruled that Plaintiff Tacuma Mwanza did not properly serve Augustus. (Dkt. #78 at 3.) In deciding whether to quash service or recommend dismissal, Judge Hoffman noted that Mwanza's claims against other defendants were dismissed for failure to exhaust administrative remedies and it is not plausible that Mwanza exhausted his administrative remedies as to Augustus. (*Id.*) He therefore recommends I dismiss.

Mwanza did not object. I nevertheless conducted a de novo review. The other two individual defendants moved to dismiss because Mwanza had not exhausted his administrative remedies. (Dkt. #18.) In response, Mwanza asserted he was never advised of a grievance policy. (Dkt. #23 at 3, 7-9.) It therefore is implausible that he exhausted administrative remedies (of which he states he was unaware) against Augustus. Dismissal is appropriate.

IT IS THEREFORE ORDERED that the Report & Recommendation (Dkt. #78) is accepted, and this case is DISMISSED. In light of this Order and my prior Orders (Dkt. #32, #76), the clerk of the court shall enter Judgment in favor of Defendants and against Plaintiff.

DATED this 9th day of January, 2015.



ANDREW P. GORDON
UNITED STATES DISTRICT JUDGE